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AF/ 3635

Michael R. Lamas
4/29/04

Attorney Docket No.: 000519

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|---------------------|---|---|-----------------------------|
| Applicant: | Robert E. Reuter, et al. |) | PATENT |
| | |) | |
| Serial No.: | 09/636,359 |) | Group Art Unit: 3635 |
| | |) | |
| Filing Date: | August 11, 2000 |) | Examiner: C. Nguyen |
| | |) | |
| Entitled: | HYBRID OFFICE PANEL CONSTRUCTION FOR A MODULAR OFFICE FURNITURE SYSTEM | | |

BRIEF ON APPEAL

To: Mail Stop - Appeal Brief - Patent
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Real Party in Interest

The real party in interest is Knoll, Inc., assignee of the application.

Related Appeals and Interferences

There are no related appeals.

Status of Claims

Claims 1-2, 6-13, 15-18, 52 and 54-56 are pending; claims 17, 18, 55 and 56 have been allowed over the prior art of record; claims 1-2, 6-13, 15, 16 and 52, 54 currently stand rejected and are on appeal. Claims 3-5, 14 and 53 were previously cancelled in Applicant's response dated January 30, 2003. All the pending appealed claims are reproduced in Appendix 1.

Status of Amendments

Applicant hereby proposes an Amendment to claim 1, which Applicant believes places the claim in condition for allowance, and corrects an oversight in submitting a prior amendment during prosecution of the instant application. Applicant proposes to amend claim 1 to include the term "unobstructed". It is noted that this term was added in a Preliminary Amendment filed on August 11, 2000 coincident with the filing of this Continuation Application. However, in an Amendment dated January 30, 2003 in which Applicant amended claim 1 "to include the limitations of claim 5, including all the limitations of intervening claims 3 and 4", the term "unobstructed" was inadvertently not included. It is noted, moreover, that in the communications between Applicants Attorney and the Examiner it was assumed that the term "unobstructed" appeared in all the independent claims of record, including claim 1. It was brought to Applicants Attorney's attention during a phone conference with the Examiner on March 10, 2004 that this term was not recited in claim 1 in Applicants original Appeal Brief filed on January 5, 2004. Thus, it is respectfully requested that this amendment be entered in order to correct this oversight.

This amended Brief is in response to the Notice mailed April 6, 2004. The Examiner objected to the Brief filed January 8, 2004 since it included claims 17 and 18 which were

indicated as allowable by the Examiner, and thus not under Appeal. The instant amended Brief does not include claims 17 and 18.

Summary of the Invention

The claims on appeal are directed to a panel assembly for a modular office furniture system comprising a rigid frame assembly and a plurality of facing panels. Means are provided for individually mounting each of the plurality of facing panels to the rigid frame assembly whereby an unobstructed cavity is formed between the rigid frame assembly and each of the plurality of facing panels. A crown member is attached to a top portion of the rigid frame assembly, the crown member adapted to mount and support office furniture accessories thereon.

Issues

Whether the Examiner erred in rejecting claims 1, 2, 6-13, 15, 16, 52 and 54 under 35 U.S.C. § 102(e) as being anticipated by Charman, U.S. Patent 4,631,881 (a copy of which is attached hereto as Appendix 2, hereinafter "Charman").

Grouping of Claims

The claims can be grouped in the following groups.

- I. Appealed Claims 1, 2, 6-13 and 15-16 are directed to a panel assembly for a modular office furniture system.
- II. Appealed Claims 52 and 54 are directed to a freestanding panel assembly for a modular office panel system.

ARGUMENTS

The Examiner erred rejecting claims 1-2, 6-13, 15, 16 and 52, 54
under 35 U.S.C. § 102(e) as being anticipated by Charman.

In the Office Action mailed August 13, 2003, the Examiner rejected these claims, stating that Charman shows an office screen and partitions comprising a rigid frame assembly 17,18, free stands 14, a plurality of top, intermediate and bottom brackets 40 (referring to figures 3 and 5) mounting on the rigid frames 17,18, a pair of top 19, intermediate 20, bottom 21 facing panels assembly having mounting means on the edged (sic) of the facing panels (referring to figure 7), and "an unobstructed cavity" being stated as defined between the inward facing back surface of the panels and the outward facing exterior surfaces of the extension posts 15,16 which upper spaces generally are defined along the vertical length of each respective extension post 15,16. The Examiner held that the "unobstructed cavity" permits passage 80 of the cabling as well as the horizontal rails 24,25 horizontally across the extension post 15,16 and along the entire length of the wall panel system, and a crown member 95 on the top of the panel assembly (citing figures 1-7). This rejection is respectfully traversed.

Although not a final rejection, this is at least the seventh (7th) office action on the merits in this application, which is a continuation of application Serial Number 08/864,138 filed on May 28, 1997, now U.S. Patent No. 6,167,664. Thus this appeal is timely.

It is respectfully submitted that Charman does not show an unobstructed cavity between the facing panels and the support posts, as described and claimed in the present application. As shown in Figure 1, and discussed at column 4, lines 61-63 the panel in Charman requires the use

of horizontal braces 24, 25 and cable trays 80. As set forth on page 3, line 3 through page 4, line 2 of the present application, this is exactly the type of problem that the present invention overcomes. Moreover, Figure 1 of Charman shows that the cabling can only move vertically at the end posts. Also, as shown in Figure 15, the edges 72 of the panels in Charman abut the end post 15,16. This results in the wiring becoming "crimped" when the panel is tilted, as clearly shown in the bottom portion of Figure 15. The Board's attention is directed to column 7, lines 30-44, wherein Charman describes the horizontal cable paths. It is specifically stated that the cables are "passed over the posts 15,16 between adjacent screens", thus teaching against an "unobstructed" cavity. Thus, clearly, the "cavity" in Charman is not unobstructed, as described and claimed in the present application.

In all of the Offices Actions submitted by the Examiner, each of the prior art references cited show that at least the edges of the panels abut the side or support posts, contrary to the teachings of the present invention. In the present application, it can clearly be seen, for example in Figures 4 and 5 along with page 11, line 19 through page 13 of the Specification, that the panels do not abut the support posts, and that cabling can pass anywhere through the panel system. Nothing in the prior art cited by the Examiner either teaches or suggest applicants claimed invention.

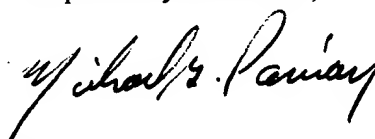
CONCLUSION

In summary, it is respectfully submitted that the prior art of record, neither alone nor in combination, as construed by the Examiner anticipates or renders the present claimed invention obvious to one of skill in the art, as providing a panel or panel system having an unobstructed cavity between the panels and the support system, eliminating the need for cable trays and

horizontal support posts, as described and claimed in the present application. For the foregoing reasons, the claims on appeal are patentable over each of the cited references and the teaching of the prior art as a whole. Reversal of the rejections and allowance of the appealed claims are respectfully requested.

Since this amended Brief is being filed in response to the notice mailed March 6, 2004, no new fee is due. However, should any additional fees be required, please charge such deficiency to Deposit Account No. 02-4553.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael G. Panian", written in a cursive style.

Michael G. Panian
Registration No. 32,623

BUCHANAN INGERSOLL, P.C.
One Oxford Centre
301 Grant Street
Pittsburgh, Pennsylvania 15219
(412) 562-3743

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Attorney for Applicants